

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

## **MEMORANDUM AND ORDER**

The Court is in receipt of a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. Pursuant to the Prison Litigation Reform Act of 1996 (PLRA), a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he or she has, three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief may be granted. The only exception is if the prisoner is in "imminent danger of serious physical injury." 28 U.S.C. §1915(g).

While incarcerated, plaintiff has had at least three prior civil rights actions dismissed as frivolous. *See James Howard Harmon, Jr. v. Therman Baird, et al.*, No. 3:14-cv-430 (E.D. Tenn. Dec. 8, 2014) (order dismissing case as frivolous and for failure to state claim); *James Howard Harmon, Jr. v. Dave Clark, et al.*, No. 3:13-cv-592 (E.D. Tenn. Oct. 10, 2013) (order dismissing case as frivolous and for failure to state claim);

*James Howard Harmon, Jr. v. U.S. Prisoner Transport, et al.*, No. 3:12-cv-374 (E.D. Tenn. July 30, 2012) (order dismissing case as frivolous and for failure to state a claim).

Plaintiff does not allege that he is in imminent danger of serious bodily harm from the defendants. Thus, in order to file this action, plaintiff must prepay the entire \$400.00 filing fee. Leave to proceed *in forma pauperis* is **DENIED**. Plaintiff's complaint shall be filed for the purpose of making a record and for statistical purposes, and shall be **DISMISSED WITHOUT PREJUDICE** to plaintiff's filing of a fee-paid § 1983 complaint, pursuant to the three-strike rule of 28 U.S.C. § 1915(g).

**ENTER:**

s/ Thomas A. Varlan  
CHIEF UNITED STATES DISTRICT JUDGE